

**COMMONWEALTH OF KENTUCKY
MINE SAFETY REVIEW COMMISSION
ADMINISTRATIVE ACTION NO. 02-MSRC-010**

**COMMONWEALTH OF KENTUCKY,
DEPARTMENT OF MINES AND MINERALS**

COMPLAINANT

v.

BOBBY JOE HORN

RESPONDENT

FINAL ORDER

This matter having come before the Commission on the Complainant's Motion for Judgment on the Pleadings, and the members of the Commission having reviewed the Respondent's Pro Se Answer filed on December 5, 2002 in the matter herein, and the Commissioners being sufficiently advised,

IT IS HEREBY ORDERED as follows:

1. The Motion for Judgment on the Pleadings is **GRANTED**;
2. The Respondent, Bobby Joe Horn, admits the allegations contained in the administrative complaint filed against him on November 13, 2002;
3. The Respondent's Surface Mining Instructor's Certificate, # SI-**-**, issued by the Commonwealth of Kentucky, shall be permanently revoked effective January 9, 2003;
4. The Respondent, Bobby Joe Horn, has agreed not to re-apply to become a surface mining instructor in the Commonwealth of Kentucky at any time in the future;
5. The Respondent shall turn over his Surface Mining Instructor's

Certificate (SI-**-**) to a representative of the KDMM at a date, time and place to be arranged by the parties;

6. The Respondent's Underground Mining Instructor's Certificate, # MI-**-**, issued by the Commonwealth of Kentucky, shall be permanently revoked effective January 9, 2003;

7. The Respondent, Bobby Joe Horn, has agreed not to re-apply to become an underground mining instructor in the Commonwealth of Kentucky at any time in the future;

8. The Respondent's Underground Foreman's Certificate, # A-**-**, issued by the Commonwealth of Kentucky, shall be placed on probation for a period of two (2) years, effective February 4, 2003. Respondent Horn agrees to comply with all state and federal mine safety laws and regulations during said probationary period;

9. Violation of the aforesaid laws or regulations may result in the KDMM filing a motion with the Mine Safety Review Commission (hereinafter referred to as the Commission) to suspend the Respondent's Underground Mine Foreman's Certificate #A-**-** for the remainder of the probationary period;

10. The Respondent's Surface Foreman's Certificate, # SP-***-**, issued by the Commonwealth of Kentucky, shall be placed on probation for a period of two (2) years, effective February 4, 2003. Respondent Horn agrees to comply with all state and federal mine safety laws and regulations during said probationary period;

11. Violation of the aforesaid laws or regulations may result in the KDMM filing a motion with the Mine Safety Review Commission (hereinafter referred to

as the Commission) to suspend the Respondent's Surface Mine Foreman's Certificate #SP-***-** for the remainder of the probationary period;

12. The Respondent, Bobby Joe Horn, shall attend a two-(2) hour training course, regarding his responsibilities as a foreman under the state and federal mine safety laws, as well as KDMM's penalty regulations. Said training course shall be provided by KDMM at its Frankfort office within thirty (30) days of the entry of this Final Order;

13. This Final Order shall be considered to constitute a "first offense" as that term is defined in 805 KAR 8:010, Section 1(5). Future allegations of separate offenses by Respondent Horn, resulting in an adjudication of guilt by the Commission, shall be deemed "subsequent offenses" as defined by 805 KAR 8:010, Section 1(13);

14. This Final Order represents a final disposition of all issues between the parties in this matter. Failure to comply with the terms and conditions of this Final Order may result in further action by the Commission. Pursuant to KRS 351.194(8), an appeal of an order of the Commission must be filed in the Franklin Circuit Court within thirty (30) days of the entry of an order.

Entered this _____ day of February 2003.

BAYARD V. COLLIER, CHAIR
MINE SAFETY REVIEW COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing FINAL ORDER was served by certified mail, return receipt requested, and by regular mail, postage pre-paid, to the following this _____ day of February 2003:

BOBBY JOE HORN

INEZ KY *****

Respondent

And by messenger mail to:

COMMISSIONER FRANK DELZER
DEPT. OF MINES & MINERALS
1025 CAPITAL CENTER DRIVE
FRANKFORT KY 40601

HON. TONY OPPEGARD
GENERAL COUNSEL
DEPT. OF MINES & MINERALS
1025 CAPITAL CENTER DRIVE
FRANKFORT KY 40601

And the original shall be kept on file:

MINE SAFETY REVIEW COMMISSION
132 BRIGHTON PARK BLVD.
FRANKFORT KY 40601

DIANE SCHULER FLEMING
GENERAL COUNSEL
MINE SAFETY REVIEW COMMISSION